HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2054 OF 2005.

Arjun Shankar Yadav & Ors. ...Applicants.

V/s.

The State of Maharashtra. ...Respondent

Shri Rahul S. Kate, for applicant.

Shri K.V.Saste, APP for respondent.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 1,2005

P.C. :-

1. Heard the learned counsel for parties. Perused the record. The applicants have been arrested in connection with C.R.No.19 of 2004 registered by Baramati Taluka Police Station. The occurrence took place on 21st March, 2004. In all 26 accused have been named in the said offence. It appears that the incident occurred on account of group rivalry in the village. The applicants and other accused are alleged to have assaulted the members of rival group in the village consisting of deceased - Navnath, complainant-Santosh, Ganesh, Tanaji, Ankush etc.

2. I shall first deal with the case of the applicant No.4 before me. Even if the prosecution case was to be

accepted as it is, the only evidence is that he assaulted Ganesh Gawade who is one of the injured witnesses. It is therefore, submitted that this applicant is entitled for a bail on parity alongwith two accused Jalinder N. Gawade and others released by this court by order dated 23/8/2004 in criminal Application No.3530 of 2004. The learned APP is unable to controvert this position. Accordingly, the prayer for bail of the applicant No.4 will have to be granted.

3. I shall now deal with the case of Applicant Nos. 1, 2 and 3. Indeed, there is evidence to indicate that these applicants assaulted the deceased. That has been deposed by the complainant and atleast 5 other witnesses. However, the witnesses have stated that these applicants were holding sword in their hands. From the medical evidence which is available on record, no injury was caused by the weapon possessed by the said applicants, as can be seen from the said evidence. If it is so, having regard to the fact that the incident is on account of rivalry between the two groups in the village, the tendency to rope in as many persons of the opposite group cannot be ruled out. In this background, these applicants will have to be granted bail as investigation is completed and chargesheet has been filed and there are no antecedents

against them.

4. That takes me to the case of the applicants No.5 and 6 before this Court. In so far as these applicants are concerned, the prosecution case is that they have assaulted the deceased. Atleast 6 witnesses have spoken against them in this behalf. They have also consistently stated that these applicants were welding weapon like iron rod. The injuries suffered by the deceased are attributable to that weapon. In view of this, as there is material to indicate the complicity of these applicants and having regard to the seriousness of the offence, the application for bail will have to be rejected in so far as these applicants.

5. For the aforesaid reasons, present application is disposed of in the following terms.

(i) Prayer for bail on behalf of the applicant Nos.5 and 6 is rejected.

(ii) Applicants No.1 to 4 are directed to be released on bail in connection with C.R.No.19 of 2004 registered by Baramati Taluka Police Station on executing Personal bond in the sum of Rs.10,000/-(Rs.Ten thousand only) each with two

local sureties in the like amount. These applicants shall not enter within the jurisdiction of Village Medad during the pendency of the trial. They shall inform about the place of their residence to the Investigating Officer as well as the Trial court during one week from the date of the release. Besides they shall report to the nearest police station once in a month on first Saturday of every English calender month. They shall not tamper the prosecution evidence in any manner whatsoever. They shall extend all co-operation for early disposal of the trial as one of the condition for bail. If the trial court is of the opinion that these applicants are responsible for delay in trial in any manner, that fact be recorded in the roznama, which will be reckoned for the purpose of cancellation of bail.

(iii) The application is disposed of in the above terms.